

Circuit Court for Prince George's County
Case No. C-16-FM-23-002798

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1639

September Term, 2023

IN THE MATTER OF LUCILLE BRADLEY

Arthur,
Shaw,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: March 20, 2025

* This is an unreported opinion. It may not be cited as precedent within the rule of stare decisis. It may be cited as persuasive authority only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

The Circuit Court for Prince George’s County appointed appellant Carolyn Wright as the guardian of her elderly mother’s person, but declined to appoint her as the guardian of her mother’s property. She appealed.

Ms. Wright presents one question for review, which we have rephrased in the interest of concision: Did the circuit court abuse its discretion in not appointing Ms. Wright as guardian of the property?¹

For the following reasons, we affirm the trial court’s rulings.

FACTUAL AND PROCEDURAL BACKGROUND

On April 13, 2023, the Prince George’s County Department of Social Services initiated this action by petitioning for the appointment of a guardian of the person and a guardian of the property for Mrs. Lucille Bradley. The petition alleged that Mrs. Bradley was born in 1929² and that she has six children and at least one grandchild. The petition also alleged that Mrs. Bradley suffered from a “[m]ajor [n]eurocognitive [d]isorder due to Alzheimer’s Disease,” that she was “unable to manage her property and affairs effectively,” and that she lacks “sufficient understanding or capacity to make or communicate responsible decisions concerning her person, including necessary medical

¹ Ms. Wright phrased the question as follows: “Did the trial court abuse its discretion in failing to appoint Wright as both guardian of the person and of the property, when it heard only stale evidence of Wright’s use of Bradley’s finances, which had occurred before Wright took the online Guardian Orientation and Training?”

² An exhibit to the petition states that Mrs. Bradley was born in 1930.

care.” The petition requested that Ms. Wright be appointed guardian of the person and that the court appoint “an appropriate individual” to serve as guardian of the property.

Several documents were attached to the petition: the report of a licensed clinical social worker from the Prince George’s County Department of Social Services; a certificate from a board-certified psychiatrist; and a certificate from a psychiatric nurse practitioner.³

In her report, the social worker recounted that on January 25, 2023, she interviewed Mrs. Bradley at her residence. The interview was prompted by an “allegation of financial exploitation.” Mrs. Bradley’s daughter, Ms. Wright, was present.

Ms. Wright informed the social worker that her father (Mrs. Bradley’s husband) had died in September of 2022. Mrs. Bradley reported that Ms. Wright and Ms. Wright’s son, Markie Wright, took care of her daily needs. It appears that Ms. Wright and her son were living in Mrs. Bradley’s residence.

³ The psychiatrist and the nurse practitioner submitted the certificates in accordance with Maryland Rule 10-202(a)(1), which states:

If guardianship of the person of a disabled person is sought, the petitioner shall file with the petition signed and verified certificates of the following persons who have examined or evaluated the alleged disabled person: (A) two physicians licensed to practice medicine in the United States, or (B) one such licensed physician and one licensed psychologist, licensed certified social worker-clinical, or nurse practitioner. An examination or evaluation by at least one of the health care professionals shall have been within 21 days before the filing of the petition.

The social worker observed that Mrs. Bradley had “poor short- and long-term memory” and was “dependent on” Ms. Wright and her grandson. Ms. Wright informed the social worker that she had her mother’s power of attorney.

The social worker recounted that on March 14, 2023, she had spoken to a representative of the credit union where Mrs. Bradley had several accounts. The representative informed the social worker that two of Mrs. Bradley’s other daughters, Eva Osewaski and Shirley Walker, had contacted the credit union and claimed to be Mrs. Bradley, but had been unable to correctly answer security questions. The representative also informed the social worker that Mrs. Bradley once had three accounts, but that Ms. Wright had recently closed the accounts and opened a new account, containing over \$100,000.00, in her name and her mother’s name.

The social worker noted that Mrs. Bradley had been diagnosed with dementia. She recommended that Ms. Wright be appointed as the guardian of Mrs. Bradley’s person and that the court determine who should be the guardian of the property.

The board-certified psychiatrist reported that he had examined Mrs. Bradley at her residence on February 25, 2023. He diagnosed her with a “major neurocognitive [disorder] due to Alzheimer’s Disease,” which he characterized as “severe.” He reported that “[s]he has poor executive function” and “poor short[-] and long[-]term memory.” Nonetheless, he opined that “[s]he can decide who can be her guardian at this time” and that “[s]he can decide who can have any of her property.”

The psychiatric nurse practitioner reported that on March 23, 2023, she had examined Mrs. Bradley at her residence. The nurse practitioner observed that Mrs.

Bradley exhibited “mild cognitive impairment” and diagnosed her with “mild dementia.” The nurse practitioner opined that Mrs. Bradley was unable to make decisions regarding her “finances and property distribution.”

Mrs. Bradley, through counsel, consented to the appointment of a guardian. She requested that Ms. Wright be appointed as guardian of the person and guardian of the property.

The court convened a hearing on September 19, 2023. At the outset of the hearing, the Department’s attorney asserted that Ms. Wright was using some of Mrs. Bradley’s money to meet the needs of the family, and not just for Mrs. Bradley’s needs. Some of the payments, he said, went to Ms. Wright’s son and “appear to be his only source of income.” He expressed the Department’s concern about “the mismanagement of funds.”

The court heard first from Ms. Wright. She testified that, after her father’s death in September 2022, she, her husband, and her son, Markie Wright, began to clean and renovate Mrs. Bradley’s house. Part of the renovation project involved removing mold, which required the demolition of walls and the installation of new flooring. Ms. Wright initially paid her son about \$3,000.00 to do the renovations. She paid him an additional \$2,000.00 for some repairs that he performed between October and December of 2022. She testified that these payments did not compensate her son for housework and yard work that he had done.

According to Ms. Wright, her son was Mrs. Bradley’s primary caregiver. She testified that before her father’s death the family had paid \$6,000.00 a month for a caregiver service. Ms. Wright decided to pay her son \$600.00 a week for his services.

Apparently in response to an inquiry from the Department, Ms. Wright had prepared a three-page, written explanation of the activity in her mother’s bank accounts—mostly withdrawals—between October 27, 2022, and January 9, 2023. The document, which details over \$20,000.00 in withdrawals in less than three months, was admitted into evidence.

Ms. Wright testified that, after her father’s death, she and her mother went to the bank and retitled her mother’s accounts, some or all of which had been joint accounts owned by her parents. She said that her mother had over \$300,000.00 in the accounts. According to Ms. Wright, one of her sisters had taken their mother to the bank, where her mother had retitled the accounts solely in her own name. At some point thereafter, Mrs. Bradley retitled the accounts in her name and Ms. Wright’s name once again. Ms. Wright insisted that her mother wanted the accounts to be in her name and Ms. Wright’s name.

The court heard next from Shirley Walker, one of Ms. Wright’s sisters. Ms. Walker testified that Ms. Wright had denied having her mother’s power of attorney. Ms. Walker said that at one point she took her mother to the bank and was able to see bank statements from three banks, which showed “a whole lot of withdrawals.” That knowledge “prompted” her “to contact social services.”

Ms. Walker saw that Ms. Wright was paying her son, Markie, but she said that Ms. Wright would not give her any information about what Markie was doing. She added

that Ms. Wright had sold their mother's car and had added Ms. Wright's name to their parents' house. She reported that her mother, who has dementia, told her, incorrectly, that her bank accounts were not jointly titled with Ms. Wright and that Ms. Wright's name was not on the title to her home.

After Ms. Walker completed her testimony, the court announced its decision. The court found, first, by clear and convincing evidence, that Mrs. Bradley lacked sufficient understanding and capacity to make or communicate responsible decisions concerning her person, including decisions regarding healthcare, food, clothing, and shelter. The court noted that Ms. Wright lived with Mrs. Bradley and that Ms. Wright had been taking care of her needs. Consequently, the court appointed Ms. Wright as the guardian of Mrs. Bradley's person.

The court went on to find that Mrs. Bradley was unable to manage her property and affairs effectively because of a physical or mental disability or disease. The court also found that Mrs. Bradley has property and benefits that require management, including hundreds of thousands of dollars in various accounts, over \$4,000.00 a month in pension benefits from her late husband, and social security benefits.

The court expressed its concerns about appointing Ms. Wright as the guardian of Mrs. Bradley's property. The court was not persuaded that Ms. Wright's explanation of the withdrawals from Mrs. Bradley's bank accounts was credible. The court expressed its concern that Ms. Wright had not properly safeguarded her mother's assets. The court also expressed concern about the credibility of the expenditures and the reasons given for the expenditures.

The court focused on Ms. Wright’s three-page, written explanation of the activity in her mother’s bank accounts, which showed over \$20,000.00 in withdrawals between October 27, 2022, and January 9, 2023. The court observed that most of the money went to Ms. Wright’s son and that the explanations for many of the withdrawals were duplicative—for example, many read: “for caregiving to include grocery shopping, meal preparation, in-home care, natural fruit juicing, exercising for mom, as well as a deep cleaning.” Others referred to “laying floor, natural fruit juicing, [and] meal preparation.”

The court turned to Mrs. Bradley’s bank statements, a few of which the Department had filed with the court. The bank statements, which the court admitted into evidence, showed numerous withdrawals, all made by means of a debit card.

The court questioned whether it was a “best practice” for Ms. Wright’s son to be paid through a series of ATM withdrawals. In addition, the court noted that the payments did not coincide with the services that Ms. Wright’s son had allegedly rendered: sometimes he was paid the next day; sometimes he was paid five or seven days later; on one day, he was paid twice and then he was paid another \$1,000.00 only three days later.

The court declined to say that it was unreasonable for a family member to be compensated for providing in-home care. But the court was unpersuaded by Ms. Wright’s explanations about the expenditures on Mrs. Bradley’s care, expressly finding that they were not “credible.” The court noted its concern about the amount of the withdrawals, the frequency of the withdrawals, and the reasons offered for the withdrawals. The court also noted that Ms. Wright had made herself a co-owner of her

mother's accounts and that, after her sister had put the accounts back in her mother's name, Ms. Wright made herself a co-owner again.

Although Ms. Wright had statutory priority because she is Mrs. Bradley's daughter,⁴ the court declined to appoint her as the guardian of the property. The court expressed its concern about whether Ms. Wright had "properly safeguarded" her mother's assets and about the credibility of Ms. Wright's explanation for the expenditures from Mrs. Bradley's accounts. The court specifically noted \$14,000.00 in ATM withdrawals from Mrs. Bradley's account between October 27, 2022, and December 22, 2022. The court observed that the timing and amount of those withdrawals were not consistent with safeguarding Mrs. Bradley's assets.

The court instructed Ms. Wright that neither she, nor any member of her family, nor anyone other than the court-appointed guardian of the property would, from that moment forward, have access to Mrs. Bradley's accounts. The court ordered Ms. Wright to hand up the debit card for the accounts.

At this point, counsel for the Department told the court that Mrs. Bradley had just asked who had taken money out of her account. The court responded, "Your daughter."

During a brief break, the court appears to have done an online search of the land records. The search disclosed that in early February 2023, after the Department had begun its investigation, Mrs. Bradley executed a deed by which she conveyed an interest

⁴ See Maryland Code (1974, 2022 Repl. Vol.), § 13-207(a)(6) of the Estates and Trusts Article.

in her home to Ms. Wright for no consideration. The court announced that it would order that the home and the bank accounts be retitled in Mrs. Bradley’s name alone.

On the following day, the court entered orders appointing Ms. Wright as the guardian of Mrs. Bradley’s person and Abigale Bruce-Watson, a Prince George’s County attorney, as the guardian of Mrs. Bradley’s property. In the order appointing the guardian of the property, the court expressly ordered that the bank accounts be retitled in Mrs. Bradley’s name alone and that the residence be reconveyed to Mrs. Bradley. The court ordered Ms. Wright to cooperate with the guardian in reconveying the residence.⁵

Ms. Wright noted a timely appeal.

DISCUSSION

“[I]n reviewing whether a circuit court properly decided to appoint a guardian for an adult,” we have adopted a “tri-partite and interrelated standard of review.” *In the Matter of Meddings*, 244 Md. App. 204, 220 (2019). We review factual findings for clear error, but review purely legal determinations without deference, unless the error is harmless. *Id.* As to the ultimate conclusion of whether an adult guardianship is appropriate, we do not disturb the circuit court’s decision absent a clear abuse of discretion. *Id.*

We find an abuse of discretion “where no reasonable person would take the view

⁵ No one has challenged whether the court had the authority to order that the bank accounts be retitled to Mrs. Bradley alone and that the residence be reconveyed to Mrs. Bradley alone in a proceeding concerning whether the court should appoint a guardian of the person and a guardian of the property. Consequently, we do not consider those issues.

adopted by the trial court, or when the court acts without reference to any guiding rules or principles.” *In re Yve S.*, 373 Md. 551, 583 (2003) (cleaned up). We may also find an abuse of discretion if the trial court’s ruling clashes with “the logic and effect of facts and inferences before the court.” *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (internal citations omitted). But we “will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.” Md. Rule 8-131(c).

Ms. Wright contends that the trial court abused its discretion in using the cash withdrawals as a basis to decline to appoint her as the guardian of her mother’s property. In support of that contention, Ms. Wright argues that the withdrawals occurred nine months before the hearing and six months before she took an online guardian training course, through which, she suggests, she first became “aware of how to properly handle [Mrs.] Bradley’s assets.” Citing cases involving search warrants in criminal cases,⁶ the seizure of animals that had allegedly been mistreated,⁷ and the valuation of securities,⁸ Ms. Wright argues that the evidence before the circuit court was “stale.”

In the circuit court, however, Ms. Wright did not argue that the evidence against her was stale. Consequently, she has not preserved that argument for appellate review.

⁶ *Connelly v. State*, 322 Md. 719, 733 (1991).

⁷ *Rohrer v. Humane Soc’y of Washington Cnty.*, 454 Md. 1, 42-43 (2017).

⁸ *Dobbyn v. Dobbyn*, 57 Md. App. 662, 674 (1984).

Md. Rule 8-131(a). We cannot fault the circuit court for failing to consider an argument that Ms. Wright did not make.

Even if Ms. Wright had preserved her staleness argument, we would conclude that it has no merit. The withdrawals all occurred less than a year before the hearing, and they ceased almost as soon as the Department began investigating whether Mrs. Bradley needed a guardian. In these circumstances, one could reasonably infer that Ms. Wright knew that the withdrawals were subject to question even before she completed the orientation or training program and that she stopped the withdrawals because an investigation had begun. She did not need a course to know that she might have been doing something wrong.

Furthermore, Ms. Wright transferred her mother's bank accounts (holding hundreds of thousands of dollars) to a joint account that Ms. Wright controlled and retransferred the funds into a joint account that Ms. Wright controlled after her sister retitled the accounts in her mother's sole name. And, for no consideration, Ms. Wright had her mother convey an interest in her residence, where Ms. Wright and her family were already living (rent-free, it appears), and which Ms. Wright had rehabbed and refurnished, using her mother's money. Ms. Wright retained her joint interest in the bank accounts and the residence even after she completed the orientation or training program. Had Mrs. Bradley died before the court ordered that the accounts be retitled and the interest in the house be reconveyed, Ms. Wright would, presumably, have inherited them. Ms. Wright's continuing interest in those assets, which she had obtained under dubious

circumstances, was not stale when the court considered whether she should be appointed as the guardian of her mother's property.

Finally, because Ms. Wright had a power of attorney from her mother, she stood in a fiduciary relationship to her mother. *See, e.g., King v. Bankerd*, 303 Md. 98, 109 (1985). Ms. Wright's main duty was loyalty to the interest of her principal, Mrs. Bradley. *Id.* at 108. That duty of loyalty prohibited Ms. Wright from acting for her own benefit. *See id.* at 108-09 (quoting *Adams Express Co. v. Trego*, 35 Md. 47, 67 (1872)). The thousands of dollars of withdrawals, as well as the retitling of the bank accounts and the conveyance of an interest in her mother's home, raise questions about whether Ms. Wright breached the duty of loyalty that she owed to her ailing mother under the power of attorney. Those questions were certainly relevant to the issue of whether the court should appoint her as the guardian of her mother's property.

In summary, the evidence of Ms. Wright's potential self-dealing did not become stale merely because it occurred before she took the online guardian training course. Consequently, the circuit court did not abuse its broad discretion in considering that evidence when declining to appoint Ms. Wright as the guardian of her mother's property.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY
AFFIRMED. COSTS TO BE PAID BY THE
APPELLANT.**